IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO: 4458 of 2000

Between:

1. A.G.Prasad Rao, S/o.Ramoji Rao, A/62 yrs.,

Occupation: Retired Research Officer, Agro

Economic Research Centre, Andhra University,

Visakhapatnam, R/o.Madura Nagar, Visakhapatnam

2. N.Gopala Rao, S/o.Venkataswamy, A/59 yrs.,

Occupation: Retired Junior Research Officer, Agro Economic Research

Centre, Andhra University, R/o/6-13-14/1, East Point Colony,

Visakhapatnam.

3. G.Ch.Sastry, S/o.Kumara Swamy, A/59 yrs.,

Occupation: Retired Junior Research Officer, Agro Economic Research

Centre, Andhra University, Visakhapatnam, R/o.Gavarvaram, Eluru

4. G.Soma Raju (died)

5. M.N.Patrudu, S/o.Narasimha Patrudu, A/59 yrs.,

Occupation: Retired Field Officer, Agro Economic

Research Centre, Andhra University, Visakhapatnam,

R/o.175/8, M.V.P.Colony, Visakhapatnam

6. Smt.Gadi Seshamma, W/o.Late G.Soma Raju, A/50 yrs.,

R/o.9-10-9, Sivajipalem, Visakhapatnam

(Petitioner NO.6 is brought on record as L.R. of the deceased

petitioner No.4 as per Court orders, dated 22.10.2002 in WPMP 23883/02)

..... PETITIONERS

AND

1. Andhra University rep. by its Registrar,

Visakhapatnam

2. The Govt. of India, Ministry of Agriculture, rep. By

Its Secretary, Dept. of Agril. & Cooperative, Krishibhavan,

New Delhi

(R2 is impleaded as per Court order, dt.13.2.2001 in

WPMP No.19973/2000)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ , Order or Direction essentially in the nature of Mandamus directing the respondent University herein to release the pension to the petitioners herein from the month of January, 2000 along with bank rate of interest with revised scales of pay as applicable with all consequential benefits and attendant benefits, which is due and payable to the petitioners herein and continue to pay the same to them.

Counsel for the Petitioners: MR.Sudhender Kulkarni

Counsel for the Respondent No.1: Dr.P.B.Vijaya Kumar, S.C. for A.U.

Counsel for the Respondent No.2: Mr.A.Rajasekhar Reddy, S.C. for Central Government

The Court made the following :

–

–

–

–

–

–

–

–

–

–

–

–

ORAL ORDER:

The petitioners seek to issue a Writ of Mandamus directing the respondents to release the pension to the petitioners from the month of January, 2000 along with bank rate of interest with revised scales of pay as applicable with all consequential benefits and attendant benefits.

The 1st petitioner retired on 31.8.1998, the 2nd and 4th petitioners retired on 31.3.1999, the 3rd petitioner retired on 31.7.99 and the 5th petitioner retired on 30.6.1999. All of them retired on attaining the age of superannuation from the services of Agro Economic Research Centre for Andhra Pradesh and Tribal Areas of Orissa. They have been sanctioned pensionary benefits as per condition ix of Memorandum of Understanding (M.O.U.) entered into between the Government of India and the Andhra University on 25.7.1999. As per M.O.U, the Agro Economic and Research Centre which is functioning with the grant-in-aid provided by the Union of India was declared permanent with effect from 21.5.1990 in order to create a network for applied research on continuous basis on specified agro economic problems, which are of interest to the Government of India and the State Governments. The power of drawing and disbursing authority will rest with the University, which will keep a separate account for the centre. Periodical statement of expenditure in the prescribed format will be furnished to the Ministry concerned and the annual audited statement of accounts along with the utilisation certificate will be furnished by the Centre to the Ministry by 31st September of every year for the previous year ending 31st March. As per condition No.xiii, there will be no change in the pay structure of any post without the concurrence of the Ministry. Condition No.xiv says that the staffing pattern of the Agro Economic Research Centre shall not be altered or

changed without prior approval of the Ministry. Thus, it is clear from the M.O.U that the entire control is in the hands of the Ministry of Agriculture. The centre is being run with 100% financial assistance from the Government of India and the State Government will not release any amount with regard to this department. For the aforesaid administrative purpose, all the employees of the Centre are treated as regular employees of the University.

The learned counsel appearing for the 1st respondent submits that the Union of India, vide its letter dated 22.11.1999 informed the University that it is not feasible for the university to release any grant to any University and the payment of pension to the staff of Agro Economic Research Centre (A.E.R.C.).

Admittedly, the University paid the pension to all the petitioners' upto 1999, but from January 2000, for want of funds from the Government of India, the 1st respondent did not pay the pension. Therefore, the University addressed a letter, dated 2.12.2000 to the Government of India for release of grants in view of the M.O.U. But the Union of India, in its letter, dated 24.3.2000 stated that the grant that has been released by the Ministry should not be utilised for payment of pension and a scheme may be worked out for payment of pension out of the accumulated funds. As such, the said pension, in view of the financial commitments has not been paid from out of the existing funds.

The 2nd respondent filed a counter stating that the Government of India is committed only to the Contributory Provident Fund facility in lieu of pension of the employees of the A.E.R. Centre. The Government of India never paid pension to the employees of Agro Economic Research Centre. It is for the University to work out an annuity scheme through LIC based on voluntary contribution by the employees without any contribution from the Government of India or the employees may join the pension scheme introduced by the Ministry of Labour for the Provident Fund subscribers of the Employees Provident Fund Organisation. The liability of the Government of India is restricted to the amount of grants-in-aid

provided from year-to-year basis. Though it is a fact that A.E.R. Centres have been made permanent only in the year 1990, but a condition that there will not be any extra financial implications on making them permanent and the current level of expenditure will not be exceeded. It is also stated that when the proposals of pension raised by the A.E.R. centres were rejected by the Union of India, the Union of India is not under obligation to pay the pension benefits.

The Government of India is not obliged to pay the pension but it is under obligation to release the grants-in-aid to the approved budget provision every year and as such the petitioner cannot claim any payment of pension from the Government of India.

Such centres are in different states of India. A substantially similar issue fell for consideration before a learned single Judge of the Allahabad High Court in Civil Misc. Writ PetitionNo.44050 of 2000; and the learned Single Judge by his Judgement, dated 3.1.2003 allowed the said writ petition and a Mandamus was issued to the University of Allahabad to pay pension and other post-retirement benefits, including arrears of pension to the petitioner therein within a period of three months. On such payment by the University, the University shall be entitled to claim reimbursement of the amounts paid from the Ministry of Agriculture, Government of India and the Ministry of Agriculture, Government of India was directed to reimburse all the payments made by the University to the employee within three months from the date of the order of the University.

Following the judgement, a learned Judge of this Court allowed W.P.No.15052 of 2000, on 11.3.2004. The Union of India is also a party to the said judgment. It is stated that as on today no Writ Appeal has been filed against the said judgment and it has not become final. Therefore, I am of the view that the petitioners are also entitled for the same relief.

Having regard to the facts and circumstances of the case, the writ petition is allowed directing the 1st respondent-Andhra University to pay the petitioners, pension and other retirement benefits for which

they are entitled to, including any arrears thereof, within a period of three months from the date of receipt of a copy of this order and on such payment to the petitioners by the 1st respondent, the 1st respondent shall claim reimbursement of the amounts so paid, from the 2nd respondent. The 2nd respondent is directed to reimburse the 1st respondent the amounts so paid by the 1st respondent, within three months of such claim being raised by the 1st respondent to it.

The Writ Petition is allowed in terms of the above directions. No costs.

_____

(V.ESWARAIAH,J.)

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday, the Sixteenth day of August, Two Thousand and Four.

Bcj/Mrr

To

1. The Registrar, Andhra University, Visakhapatnam

2. The Secretary, The Govt. of India, Ministry of Agriculture, Dept. of Agriculture & Cooperation, Krishibhavan, New Delhi.

3 Two C.D. copies.